

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**Re: 505 57th Street, N.E.
Lot 0046, Square 5227**

Preliminary Statement of Compliance with Burden of Proof

This statement is submitted on behalf of Crystal R. Hammond (the “Applicant”), the owner of the real property and improvements located at 505 57th Street, N.E., Washington, D.C. 20019 (Lot 0046, Square 5227) (the “subject property”) and also the owner operator of Rainbow Child Learning Center, Inc. which operates at the subject property, in support of her application pursuant to Subtitle X § 901.2 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations (“DCMR”) for a special exception pursuant to Subtitle D § 203.1(h) to expand the existing daytime care use and to reduce the on-site parking requirements (Subtitle C § 701.5) and for a variance pursuant to Subtitle X § 1000.1 from lot occupancy limit of 40% (Subtitle D § 304.1) in order to construct a three-story addition to the existing building in the R-2 zone district.

Attached hereto is a letter from the Applicant authorizing the filing and prosecution of this application by the undersigned counsel.

Prior History of Zoning Relief

In BZA Application No. 19002, the Board granted the Applicant special exception and variance relief that was substantially similar to the relief requested by the instant application by summary order issued on June 9, 2015. The Applicant proposed to expand

the daytime care use to 72 children and 12 staff by erecting a one-story addition to the existing structure. Unfortunately, due to circumstances beyond the control of the Applicant, the anticipated grant funding for the project from the District of Columbia Office of the State Superintendent of Education (OSSE”) was not available and the Applicant was not able to file for building permits prior to the expiration of the two-year validity period of the BZA’s summary order. The Applicant now has renewed commitment for funding and seeks to, in effect, renew the prior approval for special exception and variance relief to accommodate the expansion to serve seventy-two (72) children, albeit in a reconfigured addition.

Site and Neighborhood Description

The subject property is a triangular-shaped lot with 106-foot of street frontage on 57th Street, N.E. and no access to a public alley. The longest side of the triangle is in the interior of the lot forming its northeastern boundary line. The subject property is flat on the western and southern part of the lot, but the topography rises abruptly on the interior portions of the lot necessitating retaining walls to hold the grade in the proposed site plan. The subject property is improved by a one-story structure with a basement, all of which is utilized by Rainbow CLC. There is a driveway on the northern side of the existing building that provides one (1) off-street parking space.

The subject property is located in Square 5227, which is not configured in a manner typical of squares in the R-2 zone district which usually have rectangular lots, aligned perpendicular to the adjacent streets with a common building setback. By contrast, Square 527 has irregularly-shaped lots with buildings located randomly on the lots. On the western half of Square 5227, there are only three buildings having frontage on 57th Street,

N.E.: (1) the subject property, (2) 501 57th Street, N.E., which is a one-story block building being used as a garage for a nearby funeral home and (3) 505½ 57th Street, N.E., a one-story building occupied by Multi-Therapeutic Services, Inc., a Medicaid-certified 5-bed Intermediate Care facility for persons with intellectual disabilities and other related conditions.¹ Directly across 57th Street, N.E. from the subject property is Drew Elementary School. One peculiar feature of the 500-block of 57th Street, N.E. is that it dead-ends less than one hundred feet (100') beyond the subject property. The eastern half of Square 5227 contains a church and several detached or semi-detached, single family homes. The squares to the south, east and north of Square 5227 are characterized by a mix of low-density housing types: detached, semi-detached, row dwellings.

The Applicant established Rainbow Child Learning Center, Inc. ("Rainbow CLC") in 2006, and has operated continuously since then as a licensed child development facility. Pursuant to its current OSSE-issued license, Rainbow CLC has the capacity to serve forty (40) children – sixteen (16) under two years of age and twenty-four (24) between two and five years of age. A copy of OSSE License No. CDC-909700, issued January 21, 2021 is attached hereto as Exhibit A. The Applicant has also been issued a Certificate of Occupancy No. CO1902663 on June 6, 2019, for the subject property for use as a child development center which authorizes an occupancy load of fifty-one (51), which is inclusive of children and staff. A copy of the Certificate of Occupancy is attached hereto as Exhibit B.

¹ Despite the postal address, the Intermediate Care Facility is actually accessed from Eads Street, N.E.

Project Description

With the support of OSSE, the Applicant intends to expand the existing facility to create a state-of-the-art childcare facility to meet the growing demand for quality child development services in Ward 7. Ward 7 has the second highest number of children under the age of five in the District. The ward also has the second highest number of children in families below the federal poverty rate that need early childhood development opportunities.

The Applicant proposes a three-story addition to the north side of the existing structure with improved handicapped access which has necessitated a larger lot occupancy footprint than the 2015 application that this Board approved.

Variance Relief

Pursuant to Subtitle X § 1000.0, the Applicant is requesting one area variance: (1) from the maximum lot occupancy restriction in Subtitle D § 304.1 of forty percent (40%).

Pursuant to D.C. Code § 6-641.07(g)(3) and Subtitle X § 1000,1, the Board is authorized to grant variance “where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional condition of a specific piece of p[roperty” the strict application of the Zoning Regulation “would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property.” Under these circumstances the Board can grant variance relief, provided that there will be no “substantial detriment to the public good” and “without substantially impairing the intent, purpose and integrity” of the Zoning

Regulations. A showing of “practical difficulties” must be made for an area variance.

Palmer v. District of Columbia Bd. Of Zoning Adjustment, 287 A.2d 535 (D.C. 1972). With respect to area variances, “[i]n order to prove that an applicant suffers from ‘practical difficulties’ two elements must be proven: The applicant must demonstrate that (1) compliance with the area restriction would be unnecessarily burdensome; and (2) the practical difficulties are unique to the particular property.

Special Exception Criteria – Subtitle U § 203.1(h)

Pursuant to D.C. Code §6-641.07(g)(2) and Subtitle X § 901.2 of the Zoning Regulations, the Board is authorized to grant special exceptions where it finds the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and the Zoning Map, will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and the Zoning Map, and will meet such special conditions as may be specified in the Zoning Regulations. In this instance, the special conditions set forth in Subtitle U § 203.1(h) are applicable to the expansion of Rainbow CLC from forty (40) to seventy two (72) children.

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion . . . is limited to a determination of whether the exception sought meets the requirements of the regulation.” First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment, 423 A.2d 695, 706 (D.C. 1981)(quoting Stewart v. District of Columbia Bd. of Zoning Adjustment, 305

A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application, *Id.*

The instant application for the expansion of Rainbow CLC satisfies the “special conditions” required for special exception approval under Subtitle U § 203.1(h):

203.1 The following uses shall be permitted as a special exception in R-Use Groups A, B and C, if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to applicable conditions of each section:

(1) The facility shall be located and designed to create no objectionable traffic conditions and no unsafe condition for picking up and dropping off persons in attendance.

Rainbow CLC has operated in its current location on the subject property since 2006. The large majority of the children attending Rainbow CLC, currently and historically, live in the surrounding neighborhood. The Applicant anticipates that the same will be true for the expanded enrollment after the construction of the addition. With the majority of children and staff arriving daily by foot, there is a limited impact of traffic and on-street parking. Because the 500-block of 57th Street, N.E. is a dead end street with no real residential neighbors, there is little or no traffic or demand for on-street parking spaces. Drew Elementary is the only property on the west side of 57th Street, N.E., and it has a large parking lot which handles all of its own parking needs. As a consequence of these factors, the area in general has many available on-street parking spaces during the daytime. In the experience of the Applicant, parents bringing children to the Rainbow CLC by automobile are able to park in front of, or near, Rainbow CLC, on 57th Street, N.E., and then turn around to exit the neighborhood.

(2) Any off-site play area shall be located so as not to endanger individuals traveling between the play area and the center or facility.

At the present time, the subject property contains no play area. The Applicant proposes to locate a play set on a turf pad in the rear yard of the subject property. In addition, Rainbow CLC staff have regularly taken the children on “nature walks” in the nearby Marvin Gaye Park at Eads Street & Division Avenue, N.E., four (4) blocks from the subject property. Also, the Applicant has been able to coordinate access to the playground at Drew Elementary School, directly across the street from the subject property. Children at Rainbow CLC will have convenient access to a variety of outdoor recreation spaces, on-site and off.

(3) The Board may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties.

The Applicant acknowledges this provision and will implement any special treatment measures that the Board deems appropriate. The Applicant believes that the topography of the subject property and the distance from the nearest residential buildings within Square 5227 mitigates the need for screening and planting on the subject property to minimize the visual impact of the proposed addition.

(4) The Board may approve more than one (1) child/elderly development center or adult day treatment facility in a square or within one thousand feet (1,000 ft.) of another child development/elderly development center or adult day treatment facility only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.

From our review of the GIS map, there is only one (1) child/elderly development center or adult day treatment facility within one thousand feet (1,000') of the subject property and that is located three blocks west of the subject property and within the H.D. Woodson High School at 540 55th Street, N.E. According to OSSE records, this child development center has a capacity of only eleven (11) children aged infant to three (3) years of age. Given the

small size of this facility and its distance from the subject property, the Applicant believes that the expansion of Rainbow CLC will not occasion any adverse impact on the neighborhood.

Special Exception for Required Parking Spaces – Subtitle C § 703.2

Pursuant to Subtitle C § 701.5, the Applicant is required to provide .5 off-street parking spaces for each 1,000 square feet of building. In this instance, the Applicant would be required to provide three (3) off-street parking spaces on the subject property. However, the Board can grant a full or partial reduction in the number of parking spaces by special exception, subject to the Applicant being able to demonstrate that one of the enumerated circumstances of Subtitle C § 703.2 is applicable. In this case, the Applicant believes that Subtitle C § 703.2 (a), (d) and (g) would separately justify the special exception relief. Because of the triangular shape of the subject property, it is not possible to create a parking area for three (3) automobiles in the northern corner of the site, which is too shallow to afford the driveway, parking spaces and drive aisle required by the parking regulations. Furthermore, the provision of parking spaces would require a new curb-cut to provide access to 57th Street, N.E. since the subject property has no access to a public alley. Based on the Applicant's experience of over fifteen (15) years of operation, there are sufficient number of on-street parking spaces in the immediate area to satisfy the daytime demand.

Community Engagement


The subject property is located within the boundaries of Advisory Neighborhood Commission 7C (the "ANC) and SMD 7C06. The ANC previously voted unanimously to support the zoning relief for the subject property in 2015 to permit the Applicant to expand

its facilities to accommodate seventy-two (72) children. As required by Subtitle Y § 300.8(1), the Applicant's counsel has informed the ANC of this application for special exception and variance relief, and the Applicant will present the current application at an upcoming duly scheduled meeting of the ANC. The Applicant will continue to diligently engage and collaborate with the ANC throughout the course of the project.

Conclusion

For the reasons stated above, this application meets the requirements for special exception and variance relief, and the Applicant respectfully requests that the Board granted the requested relief.

Respectfully submitted,


George R. Keys, Jr.
Jordan & Keys PLLC



DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF
EDUCATION

DIVISION OF EARLY LEARNING
LICENSE FOR CHILD DEVELOPMENT FACILITY

THE ENTITY BELOW IS LICENSED TO OPERATE A CHILD DEVELOPMENT FACILITY IN COMPLIANCE WITH 5A DCMR § 100 et seq. THIS LICENSE APPLIES ONLY TO THE NAMED LICENSEE AND FACILITY ADDRESS LISTED BELOW. THIS LICENSE IS NOT TRANSFERABLE AND SHALL NOT BE VALID FOR USE BY ANY OTHER PERSON(S) OR ENTITY(IES), OR AT ANY PLACE OTHER THAN THAT DESIGNATED IN THE LICENSE.

License Status:	CURRENT
Type of License:	RENEWAL
Name:	RAINBOW CHILD LEARNING CENTER, INC.
Address:	506 57TH STREET, NE WASHINGTON, DC 20019
Parent Entity/Owner:	RAINBOW CHILD LEARNING CENTER, INC.

License Number:	CDC-909700
Issue Date:	01/21/2021
Expiration Date:	11/30/2023
Type of Facility:	CENTER
Type of Care:	TRADITIONAL

Approved Hours of Operation	
Months	ALL YEAR (JANUARY- DECEMBER)
Days	MONDAY-FRIDAY
Hours	07:00 AM - 06:00 PM

Approved Ages of Children in Care	
0-24 Months	16
24-60 Months	24
6-15 Years	0
Total Capacity	40

Limitations on Services:
SIX (6) WEEKS THROUGH TWELVE (12) YEARS OF AGE; ONLY SIXTEEN (16) CHILDREN MAY BE UNDER TWO (2) YEARS OF AGE.

THE LAW REQUIRES THIS LICENSE TO BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES

Sara Mead

Sara Mead
Assistant Superintendent of Early Learning

Government of the District of Columbia Department of Consumer and Regulatory Affairs

1100 4th Street SW
Washington DC 20024
(202) 442 - 4400
dcra.dc.gov

CERTIFICATE OF OCCUPANCY

PERMIT NO. C01902663



Issued Date: 06/06/2019

Address: 505 57TH ST NE		Zone: R-2	Ward: 7	Square: 5227	Suffix: 0046
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Description of Occupancy:

CHILD DEVELOPMENT CENTER 19 INFANTS TODDLERS (6 WEEKS TO 24 MONTH) & 23 CHILDREN 2YRS-12YRS OLD TOTAL OF 9 STAFF

Permission Is Hereby Granted To:
RAINBOW CHILD LEARNING CENTER INC.

Trading As:
NA

Floor(s) Occupied
BASEMENT & 1ST

Occupant Load: 61
No. of Seats

Property Owner:
CRYSTAL R HAMMOND

Address:
505 57TH ST NE
WASHINGTON, DC 20019-6904

BZA/PUD Number:

Occupied Sq. Footage:

2997

PERMIT FEE: \$82.50

Building Permit Number (if applicable)

Type of Application:
Ownership Change

Approved Building Code Use Other (Specify):

Approved Zoning Code Use Child development center

Approved Zoning General Use Daytime Care

Conditions/ Restrictions:

THIS CERTIFICATE MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS MAIN ENTRANCE, EXCEPT PLACES OF RELIGIOUS ASSEMBLY. Use complies with DCMR Title 11 (Zoning) and Title 12 (Construction). As a condition precedent to the issuance of this Certificate, the owner agrees to conform with all conditions set forth herein, and to maintain the use authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all spaces whose use is authorized by this Certificate and to require any changes which may be necessary to ensure compliance with all the applicable regulations of the District of Columbia.

Acting Director: Ernest Chappah	Permit Clerk: Gwendolyn Owens	Expiration Date:
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6/6/2019

TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-621-1639